

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

THOMAS LOID RAINS,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

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CIVIL ACTION NO. 3:22-cv-00182

PLAINTIFF'S ORIGINAL COMPLAINT

COMES NOW THOMAS LOID RAINS, hereinafter also referred to as "Plaintiff," and file Plaintiff's Original Complaint, complaining of UNITED STATES OF AMERICA, hereinafter also referred to as "Defendant," and in support thereof would respectfully show the Court the following:

I.

PRIOR WRITTEN NOTICE OF CLAIMS TO DEFENDANT

1. Plaintiff has presented her claims in this lawsuit in writing to Defendant in a completed and signed claim form which failed to state an amount claimed for personal injury damages and is therefore invalid, and that claim form is being replaced with a subsequent completed and signed claim form which does state an amount claimed for personal injury damages and which is therefore valid, and pleading further and in the alternative to the extent necessary Plaintiff respectfully requests that this lawsuit be abated for at least six (6) months after the date on which that subsequent valid claim form is received by U.S. Custom and Border Protection to give that agency at least six (6) months to consider that valid claim form.

II.
PARTIES AND SERVICE

2. Plaintiff is an individual who resides in Alpine, Brewster County, Texas, and can be noticed by and through his attorney of record, Garnett E. “Brit” Hendrix, Jr., Loncar Lyon Jenkins, 424 S. Cesar Chavez Boulevard, Dallas, Texas 75201.

3. Defendant UNITED STATES OF AMERICA may be served with this lawsuit by delivering a copy of the summons and Plaintiff’s Original Complaint to Ashley C. Hoff, United States Attorney, United States Attorney’s Office, Western District of Texas, 700 E. San Antonio, Suite 200, El Paso, Texas 79901; or to an assistant United States attorney or clerical employee whom the United States attorney designates in a writing filed with the Court Clerk. Defendant UNITED STATES OF AMERICA may also be served with this lawsuit by sending a copy of the summons and Plaintiff’s Original Complaint by certified mail, return receipt requested, to Merrick B. Garland, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, D.C. 20530-0001. Plaintiff requests service by private process server.

III.
JURISDICTION AND VENUE

4. This Court has jurisdiction over the subject matter of this lawsuit and the parties to this lawsuit because this lawsuit arises out of the negligence of MICHAEL KRIS CORONA while he was acting within the course and scope of his employment by U.S. CUSTOM AND BORDER PROTECTION, and this lawsuit is therefore brought pursuant to the Federal Tort Claims Act, which vests exclusive jurisdiction for this lawsuit in a United States District Court.

5. Venue of this lawsuit is proper in this Court because the motor vehicle collision in question of December 26, 2020 on which this lawsuit is based occurred in Hudspeth County, Texas.

IV. FACTUAL BACKGROUND

6. On or about December 26, 2020, Plaintiff THOMAS LOID RAINS was driving a 2015 Dodge Caravan motor vehicle travelling eastbound on Interstate Highway 10 near Reference Marker 102 in Hudspeth County, Texas, when MICHAEL KRIS CORONA, who was driving a 2009 Ford Crown Victoria motor vehicle while acting within the course and scope of his employment by U.S. CUSTOMS AND BORDER PROTECTION travelled westbound into the eastbound lanes of travel of Interstate Highway 10 and collided with the vehicle being operated by Plaintiff. As a direct and proximate result of the wrongful and negligent conduct of MICHAEL KRIS CORONA, Plaintiff suffered injuries, damages and medical expenses within the jurisdictional limits of this Court.

V. NEGLIGENCE

7. The collision in question made the basis of this suit as set forth herein and Plaintiff's resulting injuries and damages were proximately caused by the negligent and wrongful conduct of MICHAEL KRIS CORONA, for which such negligent and wrongful conduct Defendant UNITED STATES OF AMERICA is also responsible and liable, in one or more of the following respects:

- a. in failing to keep a proper lookout as a person of ordinary prudence would have kept in the same or similar circumstances;

- b. in failing to apply the brakes on the vehicle he was operating in a timely manner to avoid the collision in question as a person of ordinary prudence would have done in the same or similar circumstances;
- c. in failing to swerve in a manner to avoid the collision in question as a person of ordinary prudence would have done in the same or similar circumstances;
- d. in driving at a speed greater than that which is reasonable;
- e. in failing to control his speed;
- f. in travelling westbound across the eastbound lanes of travel of Interstate Highway 10;
- g. in failing to operate the vehicle he was operating as a reasonably prudent person exercising ordinary care would have operated that vehicle under the same or similar circumstances; and
- h. in failing to adhere to state statutes and/or local traffic ordinances; and

VI. DAMAGES

8. As a direct and proximate result of the negligent and/or wrongful conduct of MICHAEL KRIS CORONA and Defendant, Plaintiff THOMAS LOID RAINS suffered injuries to his teeth, chest, abdomen, left hand, head, back, and body generally Those injuries caused Plaintiff to sustain the following damages:

- a. past and future medical expenses;
- b. past and future loss of earning capacity;
- c. past and future physical pain and mental anguish;
- d. past and future physical impairment;
- e. past and future disfigurement;

- f. property damage and out-of-pocket expenses;
- g. pre-judgment interest and post-judgment interest; and
- h. case costs and expenses of suit.

Plaintiff is entitled to recover damages in this lawsuit in an amount within the Court's jurisdictional limits.

VII.
JURY DEMAND

9. Plaintiff hereby requests a trial by jury

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that Defendant be cited to appear and answer herein, and that this case be tried before the Court and a Jury, after which Plaintiff should recover:

- a. judgment against Defendant for Plaintiff's damages sought in this lawsuit as set forth above in an amount within the jurisdictional limits of this Court;
- b. pre-judgment interest at the maximum amount allowed by law;
- c. post-judgment interest at the maximum rate allowed by law;
- d. case costs and expenses of suit; and
- e. such other and further relief, at law or in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

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/s/ Garnett E. Hendrix, Jr.

Garnett E. "Brit" Hendrix, Jr.
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ATTORNEY FOR PLAINTIFF